

## § 10.901

Force” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) This death gratuity payment is a FECA benefit, as defined by § 10.5(a) of this part. All the provisions and definitions in this part apply to claims for payment under this subpart unless otherwise specified.

### **§ 10.901 Which employees are covered under this subpart?**

For purposes of this subpart, the term “employee” means all employees defined in 5 U.S.C. 8101 and § 10.5 of this part and all non-appropriated fund instrumentality employees as defined in 10 U.S.C. 1587(a)(1).

### **§ 10.902 Does every employee’s death due to injuries incurred in connection with his or her service with an Armed Force in a contingency operation qualify for the death gratuity?**

Yes. All such deaths that occur on or after January 28, 2008 (the date of enactment of Public Law 110-181 (2008)) qualify for the death gratuity administered by this subpart.

### **§ 10.903 Is the death gratuity payment applicable retroactively?**

An employee’s death qualifies for the death gratuity if the employee died on or after October 7, 2001, and before January 28, 2008, if the death was a result of injuries incurred in connection with the employee’s service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

### **§ 10.904 Does a death as a result of occupational disease qualify for payment of the death gratuity?**

Yes—throughout this subpart, the word “injury” is defined as it is in 5 U.S.C. 8101(5), which includes a disease proximately caused by employment. If an employee’s death results from an occupational disease incurred in connection with the employee’s service in a contingency operation, the death qualifies for payment of the death gratuity under this subpart.

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### **§ 10.905 If an employee incurs a covered injury in connection with his or her service with an Armed Force in a contingency operation but does not die of the injury until years later, does the death qualify for payment of the death gratuity?**

Yes—as long as the employee’s death is a result of injuries incurred in connection with the employee’s service with an Armed Force in a contingency operation, the death qualifies for the death gratuity of this subpart regardless of how long after the injury the employee’s death occurs.

### **§ 10.906 What special statutory definitions apply to survivors under this subpart?**

For the purposes of paying the death gratuity to eligible survivors under this subpart, OWCP will use the following definitions:

(a) “Surviving spouse” means the person who was legally married to the deceased employee at the time of his or her death.

(b) “Children” means, without regard to age or marital status, the deceased employee’s natural children and adopted children. It also includes any stepchildren who were a part of the decedent’s household at the time of death.

(1) A stepchild will be considered part of the decedent’s household if the decedent and the stepchild share the same principal place of abode in the year prior to the decedent’s death. The decedent and stepchild will be considered as part of the same household notwithstanding temporary absences due to special circumstances such as illness, education, business travel, vacation travel, military service, or a written custody agreement under which the stepchild is absent from the employee’s household for less than 180 days of the year.

(2) A natural child who is an illegitimate child of a male decedent is included in the definition of “children” under this subpart if:

(i) The child has been acknowledged in writing signed by the decedent;

(ii) The child has been judicially determined, before the decedent’s death, to be his child;

(iii) The child has been otherwise proved, by evidence satisfactory to the